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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

FILED

In the Matter of the Search of

1) Cingular 8125 Cellular Telephone  
FCC: NM8WZ  
Serial Number: HT625ED03503

APPLICATION AND AFFIDAVIT  
FOR SEARCH WARRANT

NOV 20 PM 3:51

CLERK U.S. DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

'07 MJ 27 19

DEPUTY

I, John Mizusawa, being duly sworn depose and say:

I am a Special Agent with the United States Immigration and Customs Enforcement, and have reason to believe that property or premises known as:

See Attachment A

in the Southern District of California there is now concealed a certain person or property, namely,

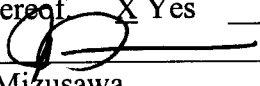
See Attachment B

which is: Subject to seizure under Rule 41(b)(1) of the Federal Rules of Criminal Procedure because the property constitutes evidence of the commission of criminal offenses or instrumentalities used in committing criminal offenses. The criminal offenses at issue are violations of: (1) Title 21, United States Code, Section 952 and 960, importation of a controlled substance, and (2) Title 21, United States Code, Sections 841 (a)(1), Possession of a controlled substance with intent to distribute, (3) Title 21 United States Code Section 846, attempt and conspiracy.

The facts support a finding of Probable Cause are as follows:

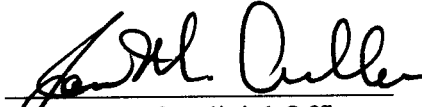
See Affidavit of John Mizusawa

Continued on the attached sheet and made a part thereof ☒ Yes ☐ No

  
John Mizusawa  
Special Agent, Immigration and Customs Enforcement  
United States Department of Homeland Security

Sworn to before me, and subscribed in my presence  
11/20/07 at San Diego, California  
Date City and State

UNITED STATES MAGISTRATE JUDGE  
Name and Title of Judicial Officer

  
Signature of Judicial Officer

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA**

In the Matter of the Search of  
Cingular 8125 Cellular Telephone  
FCC: NM8WZ  
Serial Number: HT625ED03503

CASE NO. 07 MJ 27 19  
AFFIDAVIT IN SUPPORT OF  
APPLICATION

I, John Mizusawa, being duly sworn, hereby depose and say:

I am a special agent (SA) with the Department of Homeland Security's U.S. Immigration and Customs Enforcement (ICE) having been so employed since October 21, 2002. I am currently assigned to the Resident Agent in Charge, San Ysidro Office. Prior to my current employment I served as a Customs Inspector for four years working at both the Honolulu Port of Entry in the State of Hawaii and the San Ysidro Port of Entry in the State of California. I graduated from Customs Basic Inspector School at the Federal Law Enforcement Training Center (FLETC) in December of 1998. As a Customs Inspector in San Ysidro, California I have conducted numerous searches on vehicles and discovered concealed narcotics. I am a graduate of the University of Hawaii where I received a Bachelor of Arts degree in Justice Administration. I am also a graduate of the FLETC Criminal Investigator's Training Program and the United States Customs Basic Enforcement School (CBES), in Glynco, Georgia. Since entering the field as an ICE S/A, I have conducted criminal investigations of or relating to narcotics smuggling. I have received specific training in the area of narcotics investigations, and I have training and experience in the methods used by narcotics traffickers to import and distribute drugs. I am presently assigned to Operation Alliance, a Border Drug Enforcement Task Force in San Ysidro, California, and my duties include investigating the illicit trafficking of controlled substances into the United States of America. I am cross-designated by the United States Drug Enforcement Administration to conduct narcotics investigations and enforce the provisions of the Federal Controlled Substance Act, pursuant to Title 21, United States Code.

This statement is made in support of an application for a search warrant to search a cellular telephone that is believed to contain evidence of violations of Title 21, United States Code, Sections 952 and 960, importation of a controlled substance, Title 21, United States Code, Sections 841 (a)(1),

1 possession of a controlled substance with intent to distribute, and Title 21 United States Code Section  
2 846, attempt and conspiracy.

3 This affidavit does not contain all of the information known to Agents regarding this  
4 investigation, but rather, contains only those facts believed to be necessary to establish probable cause.

5 ITEM TO BE SEARCHED

6 The items to be searched are further described as follows:

7 a. Item #1: Cingular 8125 cellular telephone. This telephone is identified by  
8 FCC # NM8WZ , serial number HT625ED03503 . The cellular telephone is  
9 presently in the custody ICE Seized Property Specialist Jobert Mata.

10  
11 ITEMS TO BE SEIZED

12 The items to be seized are evidence of violations of Title 21, United States Code, Sections 952  
13 and 960, importation of a controlled substance, Title 21, United States Code, Sections 841 (a)(1),  
14 possession of a controlled substance with intent to distribute, and Title 21 United States Code Section  
15 846, attempt and conspiracy. I request to seize any and all electronically stored information found during  
16 the search of the property listed in Attachment A, including telephone numbers of incoming and  
17 outgoing calls stored in the call registry, telephone numbers and corresponding names to those numbers  
18 in the cellular telephone's address book, any incoming and outgoing text messages related to controlled  
19 substances or narcotics smuggling, and/or stored photographic images related to controlled substances or  
20 narcotics smuggling, and telephone subscriber information.

21 PROBABLE CAUSE

22 Based upon my training and experience as a Special Agent, consultations with other Special  
23 Agents and law enforcement officers experienced in drug trafficking investigations and all the facts and  
24 opinions set forth in this affidavit, I know the following:

25 a. Drug traffickers will use digital and cellular phones because they are mobile  
26 they have instant access to phone calls and voice messages;

27

28

1           b.       Drug traffickers believe that cellular phones provide greater insulation and  
2                   protection against court ordered wiretaps and they believe in the inability of law  
3                   enforcement personnel to simultaneously track the originating and destination  
4                   phone numbers of calls placed to and from their digital and cellular phones.  
5

6           On August 20, 2007 at approximately 7:53 PM., Ms. Denise Michele ESTRADA ["ESTRADA"]  
7           entered the United States from the Republic of Mexico at the San Ysidro Port of Entry, San Ysidro  
8           California in a 1997 Dodge Ram Pickup Truck bearing U.S. California plates 7S87363.  
9

10           During pre-primary roving operations at lane 15, U.S. Customs and Border Protection (CBP)  
11           Officer R. Sanchez came in contact with the vehicle and the driver. CBP Officer Sanchez identified the  
12           driver, ESTRADA, utilizing her United States Passport. ESTRADA'S juvenile daughter was passenger  
13           in the vehicle. ESTRADA'S daughter was identified by her U.S. Birth Certificate and School ID. CBP  
14           Officer Sanchez observed the juvenile passenger taking deep breaths and avoiding eye contact.  
15

16           CBP Officer Sanchez then received a negative customs declaration from the driver of the vehicle  
17           ESTRADA. ESTRADA claimed ownership of the vehicle which was verified by the State of California  
18           registration certificate. CBP Officer Sanchez then received a second negative customs declaration. CBP  
19           Officer Sanchez conducted an initial inspection of the vehicle and observed that the bolts holding the bed  
20           and the sending unit in the gas tank were tampered with. Officer Sanchez then determined that the gas  
21           tank tapped solid. Thereafter, Officer Sanchez requested that CBP Canine Enforcement Officer G.  
22           Smithburg utilize his narcotics detector dog "Kurow" CF-99 to screen the vehicle. "Kurow" alerted and  
23           responded to the driver's side truck bed area by the gas tank. ESTRADA and her juvenile daughter were  
24           escorted to the security office for an immediate patdown. The vehicle was taken to the vehicle lift at the  
25           north end of the secondary inspection area.  
26  
27  
28

1 At the north end of the secondary inspection area, the vehicle was placed on a vehicle lift. The  
2 sending unit was removed which revealed plastic wrapped packages secreted within the gas tank. CBP  
3 Officer De Santiago removed a random package from the gas tank and cut the package open, which  
4 revealed a pungent odor and white powdery substance. Thereafter, CBP officer De Santiago field-tested  
5 that package utilizing the Duquenois-Levine Reagent test kit. This test indicated a positive reaction to  
6 cocaine. CBP Officer De Santiago then probed 8 additional packages at random, which revealed a white  
7 powdery substance. All 8 packages field-tested positive for cocaine. CBP Officer De Santiago removed  
8 a total of 25 packages from the vehicle. CBP Officer De Santiago stated that the packages had a net  
9 weight of 29.50 kilograms.  
10

11  
12 On August 20, 2007, at approximately 10:00 PM., U.S. Immigration and Customs Enforcement  
13 (ICE) Special Agent (SA) J. Mizusawa, ICE SA C. Anderson, and ICE SA A. Sanchez contacted  
14 ESTRADA. SA Mizusawa advised ESTRADA of her constitutional rights per Miranda in the English  
15 language reading directly from a preprinted card and witnessed by SA Anderson. ESTRADA stated that  
16 she understood her rights and invoked her right to remain silent. ICE SA Mizusawa and ICE SA  
17 Anderson escorted ESTRADA to the interview room to collect biographical information. Thereafter  
18 ICE SA Mizusawa advised ESTRADA a second time of her constitutional rights per Miranda in the  
19 English language reading directly from a preprinted form. ESTRADA stated that she understood her  
20 rights and invoked her right to an attorney. ICE SA Mizusawa requested permission from ESTRADA  
21 to speak to her daughter at which point she declined permission. ICE SA Mizusawa requested  
22 ESTRADA contact an adult custodian to pick up her juvenile daughter. Thereafter, ESTRADA  
23 requested a phone number from her cell phone. ESTRADA requested a phone number of Mara Helena  
24 Montana the "godmother" of the juvenile stored in her Cingular 8125 cell phone. ICE SA Mizusawa  
25  
26  
27

1 asked ESTRADA where her cell phone was located, and ESTRADA stated that her cell phone could be  
 2 found in her backpack. ICE SA Mizusawa discovered the Cingular 8125 cell phone in ESTRADA's  
 3 backpack and handed the cell phone to ICE SA Sanchez to retrieve the phone number for Mara Helena  
 4 Montana. ESTRADA also confirmed and identified the Cingular 8125 cell phone as her cell phone.  
 5 ESTRADA was given an opportunity to speak with Mara Montana via telephone to have Montana take  
 6 custody of her juvenile daughter.  
 7

8 At approximately 11:35 PM in the Security Office, CBP Officer De Santiago observed and heard  
 9 ESTRADA whisper to her daughter "I am sorry". At approximately 11:50 PM ICE SA Sanchez  
 10 witnessed ESTRADA's juvenile daughter state something to the effect of, "Mom I forgive you for  
 11 whatever you did". Thereafter, ESTRADA's juvenile daughter was released to Mara Helena Montana  
 12 her Adult Custodian.  
 13

14 Based on the facts contained in this affidavit and my experience and training, I believe that there  
 15 is probable cause to believe that the above mentioned cellular telephone contains evidence of violations  
 16 of Title 21, United States Code, Sections 952 and 960, importation of a controlled substance, Title 21,  
 17 United States Code, Sections 841 (a)(1), possession of a controlled substance with intent to distribute,  
 18 and Title 21 United States Code Section 846, attempt and conspiracy.  
 19

20   
 21 JOHN MIZUSAWA  
 22 SPECIAL AGENT, ICE  
 23

24 Sworn to and subscribed to before me

25 This 20th day of November, 2007  
 26   
 27 Judge's Name  
 28 UNITED STATES MAGISTRATE JUDGE